

Message Text

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PAGE 01 STATE 096088
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TO AMEMBASSY DACCA PRIORITY

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E.O. 11652:N/A

TAGS: EAGR, BG

SUBJECT: COTTON CLAIMS AND PERFORMANCE BONDS

REFS: (A) DACCA 1579; (B) DACCA 1806

1. WE APPRECIATE YOUR EFFORTS IN ATTEMPTING TO GET THE BDG TO FOCUS ON CLEARING UP LONG OUTSTANDING ISSUE OF COTTON CLAIMS AND PERFORMANCE BONDS. USDA, HOWEVER, IS SOMEWHAT LESS UPBEAT THAN EMBASSY ABOUT PROGRESS TO DATE, AND HAD ALREADY BEEN AWARE OF CLAIM SETTLEMENTS MENTIONED IN PARAGRAPH 2 REF A. HOHENBERG HAS CHOSEN TO GO IT ALONE ON THIS MATTER AND APPARENTLY USED UNTENDERED SALE OF PAKISTAN COTTON TO GAIN EDGE WITH BTMC.

2. SHIPPERS REPORT THAT BTMC HOLDS OVER \$3.2 MILLION IN
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PAGE 02 STATE 096088

PERFORMANCE BONDS ON DELIVERIES MADE MORE THAN 6 MONTHS AGO AND SOME TWO YEARS AGO. CLAIMS AGAINST THESE DELIVERIES HAVE HABITUALLY BEEN LATE AND POORLY DOCUMENTED. SHIPPERS ARE OFTEN PRESENTED WITH CLAIMS ON ONE ITEM AND AFTER NEGOTIATING THAT, ANOTHER CLAIM FILED ON THE SAME COTTON. FOR EXAMPLE, BTMC FINALLY AGREED TO ABIDE BY THEIR CONTRACT AND SETTLE MICRONAIRE CLAIMS ON LCA SCALE. THIS SUB-

STANTIALY REDUCED THEIR CLAIMS. THEY THEN FILED SEVERAL SHORT FIBER/TRASH CLAIMS. BOTH LCA AND OSAKA RULES REQUIRE THAT CLAIMS BE FILED WITHIN 45 DAYS OF DELIVERY.

3. SHORT FIBER AND TRASH ARE NORMALLY A PART OF QUALITY OR GRADE AND NOT ITEMS FOR SEPARATE CLAIMS. INDIVIDUAL SHIPPERS WOULD LIKE TO RESIST SUCH CLAIMS BECAUSE OF UNUSUAL NATURE AND LACK OF CONFIDENCE IN BTMC TESTING. BUT, USDA AND ACSA HAVE STATED THAT ALTHOUGH CLAIMS ARE UNUSUAL AND NOW IMPOSSIBLE TO VERIFY, IF SPECIFICATIONS WERE IN THEIR CONTRACTS, OBLIGATION IS CLEAR.

4. WE WOULD APPRECIATE EMBASSY PRESSING BTMC TO SET A CUTOFF DATE FOR FILING CLAIMS ON OLD SALES AND TO RELEASE BONDS IN EXCESS OF FILED CLAIMS. USDA FEELS THIS WILL NOT BE DONE UNLESS PRESIDENTIAL ADVISOR ORDERS IT AS A FOLLOW-UP TO HIS PLEDGE TO CLEAR UP THIS MATTER BY DECEMBER 31, 1977. THE PRESIDENTIAL ADVISOR OBSERVED THAT FRICTION BETWEEN U.S. SHIPPERS AND BTMC WAS LARGELY A COMMUNICATION PROBLEM, AND SHIPPERS DO NOT FEEL THERE HAS BEEN ANY IMPROVEMENT IN COMMUNICATIONS WITH BTMC. SOME SHIPPERS ARE NOW CONVINCED THAT BTMC USING COST OF PERFORMANCE BONDS TO SHIPPERS AS A LEVER TO EXTRACT UNJUST CLAIMS. WE WILL, OF COURSE, DEFER TO YOUR JUDGEMENT WHETHER OR NOT TO APPROACH THE ADVISOR AT THIS TIME.

5. CONGRESSMAN MAHON, CHAIRMAN OF THE HOUSE APPROPRIATIONS LIMITED OFFICIAL USE

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PAGE 03 STATE 096088

COMMITTEE, HAS AGAIN INQUIRED AS TO THE PROGRESS ON THIS MATTER.

6. WE WOULD PREFER THAT YOU REPORT SETTLEMENTS OF INDIVIDUAL SHIPPERS CLAIMS ONLY BY CLASSIFIED TELEGRAMS. CHRISTOPHER

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